

1 **Education and Workforce Development Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(Amendment)**

5 **703 KAR 5:080. Administration Code for Kentucky's Educational Assessment Program.**

6 RELATES TO: KRS 158.6453, 158.6455

7 STATUTORY AUTHORITY: KRS 156.070, 158.6453, 158.6455

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6455 requires the Kentucky Board
9 of Education to promulgate administrative regulations to establish a system for identifying and
10 rewarding successful schools and to establish appropriate consequences for schools failing to
11 meet or exceed their assistance line. This administrative regulation establishes an Administration
12 Code for Kentucky's Educational Assessment Program for appropriate testing practices for state
13 required tests.

14 Section 1. Incorporation by Reference. (1) The "Administration Code for Kentucky's
15 Educational Assessment Program", December 2013 [~~May 2009, revised September 2009~~], is
16 incorporated by reference.

17 (2) This document may be inspected, copied, or obtained, subject to applicable copyright law, at
18 the Department of Education, Office of Assessment and Accountability, 18th Floor, Capital
19 Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. through
20 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

12-12-13
(Date)

Terry Holliday, Ph.D.
Terry Holliday, Ph.D.
Commissioner of Education

12-13-13
(Date)

Roger L. Marcum
Roger L. Marcum, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on January 23, 2014, at 2:00 p.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky.

Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2014. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel,
Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower,
Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 703 KAR 5:080

Agency Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: The revised regulation clarifies test administration and security procedures to ensure consistent implementation in the state-required assessment and accountability system that classifies schools and districts.

(b) The necessity of this administrative regulation: KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools and districts, complies with the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor and ensures accountability.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides information necessary for implementation of the statewide assessment and accountability system. The regulation provides test administration and security procedures in the requirements of KRS 158.6453, KRS 158.6455 and the No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidance on the test administration and security procedures in the state-required assessment and accountability programs. The regulation provides a rationale, appropriate assessment practices, procedures for reporting concerns regarding errors in assessment materials, a process for violations of test administration and security procedures, for the review of secure assessment components and a proper reporting of student data and nonacademic indicators.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment incorporates test security suggestions from Kentucky's security audit; clarifies issues highlighted during the allegation process and in conversations with stakeholders; and makes language and format improvements.

(b) The necessity of the amendment to this administrative regulation: The amendment provides clarification on Kentucky's test administration and security procedures to improve the implementation in Kentucky classrooms.

(c) How the amendment conforms to the content of the authorizing statute: The amendment provides guidance test administration and security procedures in the requirements of KRS 158.6453, KRS 158.6455 and the No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides necessary clarification on test administration and security procedures to ensure valid test results.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts in Kentucky and supporting staff in the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff in schools and school districts administers the state-required assessment using consistent rules and procedures. The amendment ensures consistent procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new costs to school districts.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Kentucky schools and districts will have clear guidance on test administration and security procedures.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The proposed amendment will require development of new explanatory materials and data programs for new assessment and accountability program in the normal course of work for staff. No additional costs are expected.

(b) On a continuing basis: The proposed regulation does not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KDE operating funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Current funding supports implementation and data reporting for school and district accountability.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not)) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 703 KAR 5:080

Contact Person: Kevin C. Brown

Phone number: 502-564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? School districts.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 158.6453, KRS 158.6455 and the No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

There will be no additional revenue generated by this administrative regulation. No additional costs to school districts are expected.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? The proposed regulation will require no additional cost.

(d) How much will it cost to administer this program for subsequent years? The proposed regulation will require no additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

Summary of Material Incorporated by Reference and
Summary of Changes to Material Incorporated by Reference

703 KAR 5:080, Administration Code for Kentucky's Educational Assessment Program

- (1) The following documents are incorporated by reference:
 - (a) "703 KAR 5:080 Administration Code For Kentucky's Educational Assessment Program", December 2013 [~~September 2009~~]
- (2) This document is to provide direction test administration and security procedures in the state-required assessment and accountability programs KRS 158.6453, KRS 158.6455, and the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 6301 et. seq.
- (3) The document incorporated by reference consists of (20) pages.